

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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ANTHONY MICHAEL GIOIOSA, SR.,

Case No. 2:22-cv-00245-RFB-EJY

Plaintiff,

v.

ORDER

APPOINTMENT OF HEIR AND NOT
HEFIERS,

Defendants.

I. DISCUSSION

On February 8, 2022, Plaintiff, an inmate in the custody of Nevada Department of Corrections, submitted an untitled document to the Court that included his social security number. ECF No 1-1. Plaintiff has not filed a complaint or an application to proceed *in forma pauperis*.

Under Federal Rule of Civil Procedure 3, “[a] civil action is commenced by filing a complaint with the court.” Fed. R. Civ. P. 3. To proceed *in forma pauperis* under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, which allows an inmate who seeks to commence a civil action without prepaying the \$402 filing fee, the inmate must submit all three of the following documents to the Court:

(1) a completed Application to Proceed in Forma Pauperis for Inmate, on this Court’s approved form (i.e. pages 1 through 3 with the inmate’s two signatures on page 3),

(2) a Financial Certificate properly signed by both the inmate and a prison or jail official (i.e. page 4 of this Court’s approved form), and

(3) a copy of the inmate’s prison or jail trust fund account statement for the previous six-month period. If Plaintiff has not been at the facility a full six-month period, Plaintiff

must still submit an inmate account statement for the dates he has been present at the facility.

The Court grants Plaintiff a one-time extension to file a complaint and a complete application to proceed *in forma pauperis* containing all three of the required documents, on or before **March 24, 2022**. Absent unusual circumstances, the Court will not grant any further extensions of time. If

Plaintiff is unable to file a complaint and a complete application to proceed *in forma pauperis* with all three required documents on or before **March 24, 2022**, this case will be subject to dismissal without prejudice. Plaintiff is free to file a new case with the Court when Plaintiff is able to file a complaint and acquire all three of the documents needed to file a complete application to proceed *in forma pauperis*.

A dismissal without prejudice means Plaintiff does not give up the right to refile the case with the Court, under a new case number, when Plaintiff is able to file a complaint and has all three documents needed to submit with an application to proceed *in forma pauperis*. Alternatively, Plaintiff may choose not to file an application to proceed *in forma pauperis* and instead pay the filing fee of \$402 on or before **March 24, 2022**, to proceed with this case.

II. ORDER

For the foregoing reasons, IT IS HEREBY ORDERED that Plaintiff will submit a complaint to this Court on or before **March 24, 2022**.

IT IS FURTHER ORDERED that the Clerk of the Court will redact Plaintiff's social security number in the untitled document (ECF No. 1-1) and hold, but not file the same until Plaintiff submits an *in forma pauperis* application that is accepted by the Court.

IT IS FURTHER ORDERED that the Clerk of the Court will send to Plaintiff the approved form for filing a 42 U.S.C. § 1983 complaint and instructions for the same. The Clerk of the Court will also send Plaintiff a copy of his redacted, untitled document. ECF No. 1-1.

IT IS FURTHER ORDERED that the Clerk of the Court will send Plaintiff the approved form application to proceed *in forma pauperis* by an inmate, as well as the document entitled information and instructions for filing an *in forma pauperis* application.

IT IS FURTHER ORDERED that on or before **March 24, 2022**, Plaintiff will either pay the \$402 filing fee for a civil action (which includes the \$350 filing fee and the \$52 administrative fee) or file with the Court:

- (1) a completed **Application to Proceed in forma pauperis for Inmate** on this Court's approved form (i.e. pages 1 through 3 of the form with the inmate's two signatures on page 3),

- 1 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official
2 (i.e. page 4 of this Court's approved form), and
3 (3) a copy of the **inmate's prison or jail trust fund account statement for the previous**
4 **six-month period.**

5 IT IS FURTHER ORDERED that, if Plaintiff does not file a complaint and a complete
6 application to proceed *in forma pauperis* with all three documents or pay the \$402 filing fee for a
7 civil action on or before **March 24, 2022**, this case will be subject to dismissal without prejudice for
8 Plaintiff to refile the case with the Court, under a new case number, when Plaintiff is able to file a
9 complaint and has all three documents needed to file a complete application to proceed *in forma*
10 *pauperis* or pays the \$402 filing fee.

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12 Dated this 22nd day of February, 2022.

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15 ELAYNA J. YOUCHAH
16 UNITED STATES MAGISTRATE JUDGE
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